

City of Surrey  
**PLANNING & DEVELOPMENT REPORT**

File: 7907-0343-00

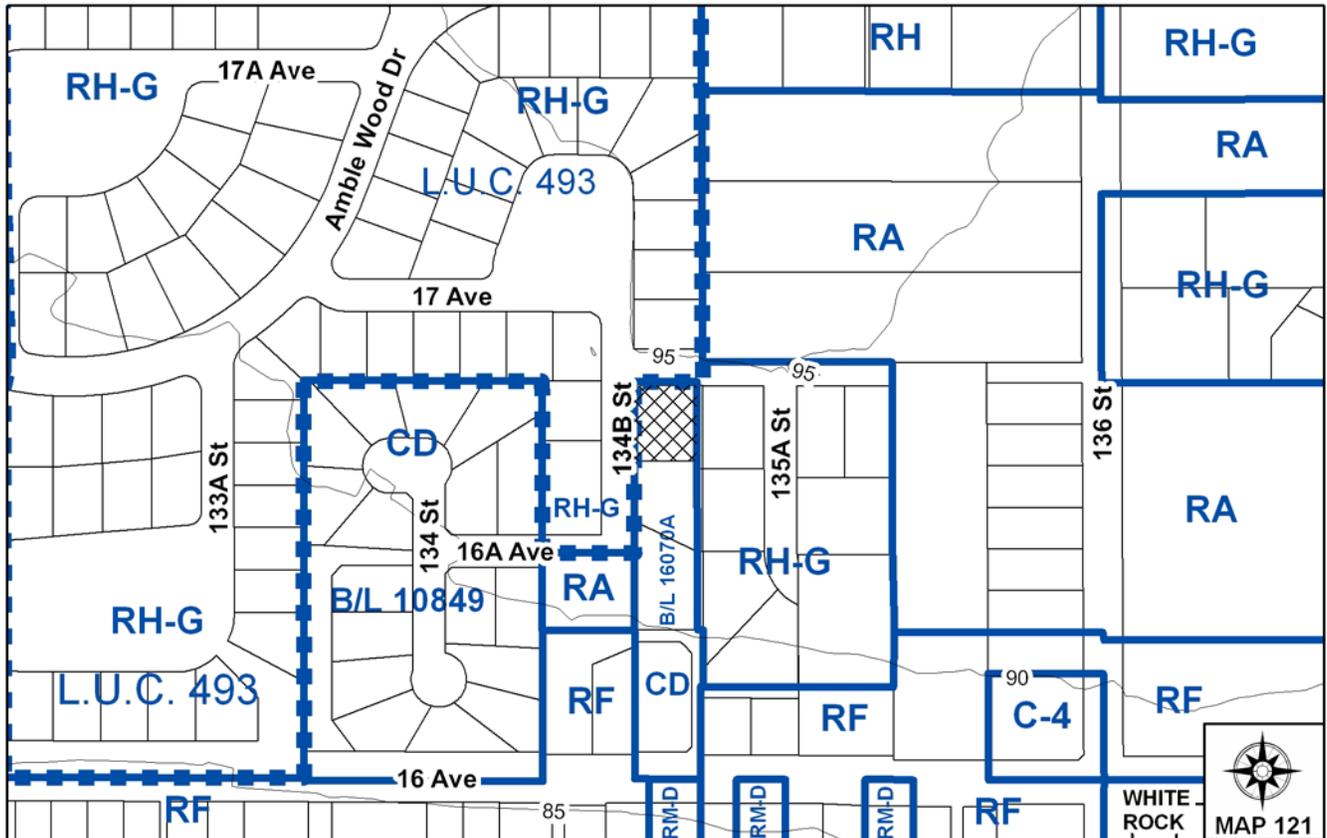
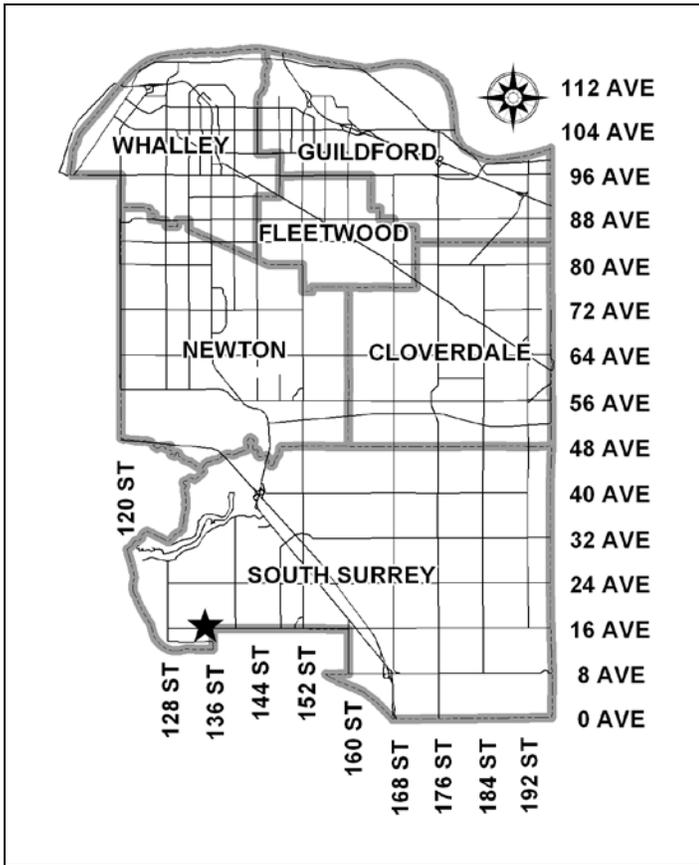
Planning Report Date: November 19, 2007

**PROPOSAL:**

- **Restrictive Covenant Amendment**

in order to permit a proposed new dwelling to encroach into the 5-metre (16 ft.) easterly setback covenant area.

**LOCATION:** 1688 - 134B Street  
**OWNERS:** Brian T. McLeod & Yvonne F. McLeod  
**ZONING:** CD (By-law No. 16070A)  
**OCP DESIGNATION:** Suburban  
**LAP DESIGNATION:** Suburban Residential (1/2 Acre)



### RECOMMENDATION SUMMARY

- Council approve the proposed amendment to the No-Build Restrictive Covenant (Tree Preservation and Rear Yard Setback) for the subject lot.

### DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- None

### RATIONALE OF RECOMMENDATION

- The lot orientation and house design require that the rear yard be located along the south property line, thus negating the need for the additional 5-metre (16 ft.) setback established in the Restrictive Covenant along the east property line.
- The proposed amendment fully satisfies the intent of the Restrictive Covenant which is to preserve trees on the lot.
- The applicant has discussed the proposal with the adjacent property owner to the east and to other surrounding property owners and has received no objections.

RECOMMENDATION

The Planning & Development Department recommends that:

1. Council approve the proposed amendment to the Restrictive Covenant on the subject lot as follows:
  - (a) to allow a single family dwelling to encroach within the 5.0-metre (16 ft.) setback area, adjacent the 7.0-metre (23 ft.) wide tree preservation covenant area.

REFERRALS

Engineering: The Engineering Department has no objection to the project

SITE CHARACTERISTICS

Existing Land Use: The subject lot is currently vacant and is in the process of being serviced.

Adjacent Area:

<b>Direction</b>	<b>Existing Use</b>	<b>OCP/NCP Designation</b>	<b>Existing Zone</b>
North (Across 17 Avenue):	Single family dwellings.	Suburban/Suburban Residential (1/2 acre)	RH-G
East:	Single family dwellings.	Suburban/Suburban Residential (1/2 acre)	RH-G
South:	Vacant lot under construction.	Suburban/Suburban Residential (1/2 acre)	CD (By-law No. 16070A)
West (Across 134B Street):	Single family dwellings.	Suburban/Suburban Residential (1/2 acre)	RH-G

DEVELOPMENT CONSIDERATIONSBackground

- The subject lot, located on the northeast corner of 134B Street and 17 Avenue (1688 – 134B Street), and the 3 neighbouring lots to the south, were created under rezoning and subdivision application No. 7905-0365-00. The rezoning component of this application, which proposed a rezoning from "One-Acre Residential Zone (RA)" and "Single Family Residential Zone (RF)" to "Comprehensive Development Zone (CD)" and "Half-Acre Gross Density Residential Zone (RH-G)", was approved by Council on June 26, 2007. The associated subdivision was approved on July 31, 2007.

- The original subdivision application included not only a parent parcel (13487 – 16 Avenue), but also a 10-metre (33 ft.) wide portion of unopened road allowance for 135 Street between 16 Avenue and 17 Avenue. As part of the subdivision, the most westerly seven (7.0) metres (23 ft.) of this unopened road allowance was sold and consolidated with the 3 most northerly of the 4 newly created single family lots (including the subject lot). The remaining 3.0 metres (10 ft.) was sold and consolidated with 3 existing neighbouring lots to the east.
- During the original rezoning and subdivision application (No. 7905-0365-00), concerns were raised by neighbouring residents regarding tree preservation on the site. The site was heavily treed particularly within the unopened road allowance area, and neighbouring residents wanted to ensure that these trees would be retained. In response to these concerns, Council required that a no-build Restrictive Covenant (RC) for tree preservation be registered over the unopened road allowance area, as a condition of final approval.
- Two separate RC's were prepared, one was registered over the easterly 3.0-metre (10 ft.) wide portion of the road allowance, which was subsequently consolidated with the neighbouring properties to the east, and the other was registered over the westerly 7.0-metre (23 ft.) wide portion of the road allowance, which was subsequently consolidated with the 3 most northerly of the 4 new single family lots (including the subject lot). The RC's prohibit construction of buildings and structures within these areas and ensure that the existing trees are protected. (Appendix IV)
- The RC registered on the subject property, as well as the two other newly created lots to the south, includes two restricted zones: a 7.0-metre (23 ft.) tree protection zone; and an additional 5.0-metre (16 ft.) rear yard setback requirement to ensure that the homes on the new lots would not be constructed immediately next to the covenant area, and to provide some functional rear yard space outside of the tree protection zone (Appendix II).

#### Proposed Covenant Amendment

- The new owners of the subject property have submitted a building permit application to construct a new home on their lot. The home they wish to build has a building footprint of 292 square metres (3,145 sq.ft.) including the garage and decks (Appendix III), and has a lot coverage of approximately 24% and floor area ratio of 0.24 which comply with the 25% lot coverage and 0.32 FAR permitted under the existing CD Zone (By-law No. 16070A).
- However, the owners advise that, while they were aware of the 7.0-metre (23 ft.) tree protection covenant area along the east property line, neither they nor their home designer were aware of the additional 5.0-metre (16 ft.) rear yard setback required in addition to the 7.0-metre (23 ft.) tree protection area.
- As such, the proposed building envelope currently extends to the western edge of the 7.0-metre wide tree protection covenant area, and is in violation of the 5.0-metre (16 ft.) additional setback provision of the covenant. The applicants, therefore, have requested an amendment to the Restrictive Covenant to allow their house to be built as designed. Specifically the applicants have requested to amend the Restrictive Covenant for Lot 4 to delete the additional 5.0-metre wide (16 ft.) setback area to allow a single family dwelling to be sited up to the 7.0-metre (23 ft.) wide tree preservation covenant area.

- The proposed amendment will not impact any of the existing trees within the covenant area. The trees being retained within the covenant area are on the easternmost edge of the site and the proposed elimination of the additional 5.0-metre (16 ft.) rear yard setback requirement will not adversely impact any of these trees (Appendix IV). In addition, mature trees on the west side of the lot are also being retained. As such, the original intent of the covenant, which was to ensure tree preservation, is being fully protected under this proposal.
- While the covenant defines the east yard as being the rear yard for all 3 lots on which the covenant applies, the subject lot is unique in that the lot orientation actually results in the rear yard being located along the south property line. As such, encroachment of the dwelling within the 5.0-metre (16 ft.) setback protection area will not actually eliminate the functional rear yard, which is located on the south of the lot.
- The subject lot is the smallest of the 3 lots on which the covenant has been registered. As such, the additional 5.0-metre (16 ft.) rear yard setback requirement has a larger impact on the buildable area of this lot than on the other 2 neighbouring lots to the south, and is deemed onerous and unnecessary given that the trees are being fully preserved.
- The applicants have canvassed surrounding property owners including the immediate property owner to the east, and have received no objections to their proposal.

#### PUBLIC NOTIFICATION

- A Development Proposal Sign was erected on the property providing notice of the proposed RC Amendment on November 11, 2007. No comments have been received prior to finalizing this Report. It is noted that contrary to Council policy, the sign will not have been installed for the full two weeks prior to proceeding to Council for consideration. However, staff can support the proposal proceeding to Council for consideration under the circumstances, given that the building permit is ready for issuance and the applicant has canvassed surrounding property owners and has received no objections.
- Pre-notification letters regarding the subject proposal were also sent to surrounding property owners on November 14, 2007, and no responses have been received prior to finalizing this Report.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

- Appendix I. Lot Owners, Action Summary and Project Data Sheets
- Appendix II. Explanatory Plan for No-Build Restrictive Covenant (Tree Preservation)
- Appendix III. Proposed House Plan
- Appendix IV. Tree Preservation Plan

Jean Lamontagne  
General Manager  
Planning and Development

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Information for City Clerk

Legal Description and Owners of all lots that form part of the application:

1. (a) Agent:      Name:                Yvonne McLeod  
                         Address:            #103 - 6082 Boundary Drive W.  
   Surrey, BC  
   V3X 2B3  
                         Tel:                    604-531-1626
  
2.      Properties involved in the Application
  - (a)      Civic Address:            1688 - 134B Street
  
  - (b)      Civic Address:            1688 - 134B Street  
            Owners:                Yvonne Frances McLeod and Brian Thomas McLeod  
            PID:                        027-178-781  
            Lot 4 Section 17 Township 1 New Westminster District Plan BCP31929
  
3.      Summary of Actions for City Clerk's Office

## SITE DATA SHEET

Existing Zoning: CD (By-law No. 16070A)

Required Development Data	Minimum Required / Maximum Allowed	Proposed
LOT AREA* (in square metres)		
Gross Total		
Road Widening area		
Undevelopable area		
Net Total		1,200 m <sup>2</sup>
LOT COVERAGE (in % of net lot area)		
Buildings & Structures	25%	25%
Paved & Hard Surfaced Areas		
Total Site Coverage		
SETBACKS ( in metres)		
Front	7.5 m	7.5 m
Rear	7.5 m	7.5 m
Side #1 (East)	3.0 m	7.0 m
Side #2 (West)	7.5 m	7.5 m
BUILDING HEIGHT (in metres/storeys)		
Principal	9 m	
Accessory	4 m	
NUMBER OF RESIDENTIAL UNITS	n/a	
Bachelor		
One Bed		
Two Bedroom		
Three Bedroom +		
Total		
FLOOR AREA: Residential	n/a	
FLOOR AREA: Commercial	n/a	
Retail		
Office		
Total		
FLOOR AREA: Industrial		
FLOOR AREA: Institutional		
TOTAL BUILDING FLOOR AREA		

*\* If the development site consists of more than one lot, lot dimensions pertain to the entire site.*

## Development Data Sheet cont'd

Required Development Data	Minimum Required / Maximum Allowed	Proposed
DENSITY	n/a	
# of units/ha /# units/acre (gross)		
# of units/ha /# units/acre (net)		
FAR (gross)		
FAR (net)		
AMENITY SPACE (area in square metres)	n/a	
Indoor		
Outdoor		
PARKING (number of stalls)	n/a	
Commercial		
Industrial		
Residential Bachelor + 1 Bedroom		
2-Bed		
3-Bed		
Residential Visitors		
Institutional		
Total Number of Parking Spaces		
Number of disabled stalls		
Number of small cars		
Tandem Parking Spaces: Number / % of Total Number of Units		
Size of Tandem Parking Spaces width/length		

Heritage Site	NO	Tree Survey/Assessment Provided	YES
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